

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**KENDEL W. McKINNEY,** )  
 )  
Petitioner/Defendant, )  
 ) CIVIL NO. 09-cv-723-JPG  
vs. )  
 ) CRIMINAL NO. 07-cr-40018  
**UNITED STATES of AMERICA ,** )  
 )  
Respondent/Plaintiff. )

**MEMORANDUM AND ORDER**

**GILBERT, District Judge:**

Petitioner Kendel McKinney entered an open plea of guilty to two counts involving the distribution of crack cocaine. McKinney was sentenced to 293 months imprisonment, six years supervised release, a fine of \$500, and a special assessment of \$100. On direct appeal, he argued that his sentence was unreasonable, and that this Court did not provide adequate justification for the upward departure in his sentence. The Seventh Circuit rejected McKinney's argument, affirming his sentence. *United States v. McKinney*, 543 F.3d 911 (7<sup>th</sup> Cir. 2008). McKinney then filed the instant motion pursuant to 28 U.S.C. § 2255.

In his motion, as detailed in his supporting memorandum, McKinney argues that Counsel was constitutionally ineffective in failing to challenge his criminal history computation. He also asserts that Counsel did not properly advise him of potential sentencing enhancements, thus rendering his guilty plea involuntary and unknowing.

The Court **ORDERS** the Government to file a response to McKinney's motion within **THIRTY (30) DAYS** of the date of this Order. The Government shall, as part of its response, attach all relevant portions of the record.

**IT IS SO ORDERED.**

**Dated: April 12, 2010.**

s/ J. Phil Gilbert  
U. S. District Judge